

**U.S. District Court
Boston, Massachusetts
District of Massachusetts**

**Robert J. Gallagher
Plaintiff**

**Civil No. 05-11811-DPW
Formerly known as 05-10612
Jury Trial Demanded**

v.

**NewPharm Distributors, LLC
Eugene E. Newman, Reg. Agent
Ralph Jordan, Acting Agent
and/or Individually-Separately
Defendants**

Motion for Order of Notice

Now comes the Plaintiff, Robert J. Gallagher, and moves that this Honorable Court rule that adequate notice be satisfied by a means other than the ordinary FRCP, Rule 4 *Service of Process* procedures, i.e.,

(I) via *publication* under FRCP IX. Special Proceedings Rule 71A, (3) (B), i.e. the Defendants *cannot be personally served, because after diligent inquiry within the state in which the complaint is filed the defendant's place of residence cannot be ascertained by the plaintiff; or,*

(II) via *electronic mail* under which the defendants are operating; or

(III) via *service at last known address*; or

(IV) via *otherwise*

for the following reasons:

(1) Plaintiff has already made every diligent and reasonable attempt-over a period of six months- to serve Defendants without success- and at considerable cost;

(2) Despite the fact that Defendants constantly email Plaintiff with Pharmaceutical ads, Defendants refuse to respond to requests for business address and to Request for Waiver of Service of Process (Exhibit A);

(3) ABC Legal Services, Inc., 910 5th Ave., Seattle, WA 98104 (206-521-9000) Tracking # 3531862 served original Complaint on Plaintiffs on May 2, 2005 at 3:09 p.m. at the cost to the Plaintiff of \$250 (Exhibit B).

(4) On 9/6/05 the *Corporation Division of the Michigan Secretary of State* notified Plaintiff: *"The address you listed in your email for the entity New Pharm Distributors, LLC is what we currently have listed for the registered office address. There has been no other documents filed for this entity other than the articles of organization. You may view them on our website at www.michigan.gov/corporations"* (Exhibit C, emphasis added).

(5) Plaintiff has attempted to contact Plaintiff at said address (on file with the Michigan Secretary of State) with repeated *Requests for Waiver of Service of Process* but mail is returned. The latest attempts failed, despite large bold print on the envelope ADDRESS REQUIRED REQUESTED. The most recent attempts were made on 07/08/05 and on 08/18/05 and were returned, marked UAA - UNDELIVERABLE AS ADDRESSED - FORWARDING EXPIRED (Exhibit D).

(6) Despite Plaintiff's request that Service of Process be satisfied at the *last known address*, Plaintiff faces a dilemma: if posted mail is returned- how can Service of Process at last known address succeed? Thus, Plaintiff's request for Service of Process by *publication*, or by *electronic mail*, or *otherwise*.

(7) Plaintiff spoke with Defendant Ralph Jordan via telephone twice at 866-890-8629 but 866 is toll-free and so does not indicate location (Exhibit A).

(8) Defendants have forfeited their right to ordinary means of Service of Process by making themselves, in effect, unavailable for such- including failure to keep their own Secretary of State updated as to location.

(9) It is not a giant leap to conclude that either intentionally or unintentionally, Defendants are, in effect, evading ordinary means of Service of Process. A business ought to be accountable by at least a mailing address.

Wherefore, plaintiff, who has made every diligent and reasonable (and more than reasonable) attempt to contact defendants over a six-month period, without success, requests this Court allow a means other than the usual Service of Process to be effectuated.

Respectfully submitted,


Robert J. Gallagher

September 8, 2005

EX. A

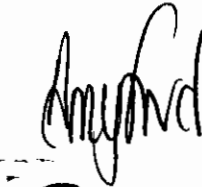
**U.S. District Court
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**Robert J. Gallagher
Plaintiff**

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Defendants**



**AMY FORD
Notary Public
Commonwealth of Massachusetts
My Commission Expires March 7, 2008**

**Plaintiff Affidavit
(Accompanying Motion for Order of Notice)**

Now comes the Plaintiff who swears to the following:

(1) Plaintiff has made every diligent and reasonable attempt- over a period of six months- to serve defendants, without success- and at considerable cost of time and money.

(2) Defendants constantly email plaintiff with pharmaceutical ads but do not respond to requests for business address and to Request for Waiver of Service of Process.

(3) Defendants' last known address is listed with the *Michigan Secretary of State Corporation Division* as 6734 Edinborough Drive, W. Bloomfield MI 48322 and yet all mail sent by plaintiff to that address is returned (Exhibit C, Exhibit D).

(4) Plaintiff has spoken twice with defendant Ralph Jordan at 866-890-8629 but *Melissa Data* at <http://www.melissadata.com/keywordsearch/areacode.htm> reports that free-toll telephone numbers cannot be traced to a state location.

Respectfully submitted,

Robert J. Gallagher, Pro Se Plaintiff September 8, 2005

AF

U.S. DISTRICT COURT DISTRICT OF MASSACHUSETTS

ROBERT J. GALLAGHER

Plaintiff/Petitioner

Cause #: 05 10612 DPW

VS.
NEWPHARM.NET
RALPHJORDAN@NEWPHARM.NET

Defendant/Respondent

Declaration of Service of:

SUMMONS IN A CIVIL CASE; COMPLAINT

Hearing Date:

Declaration:

The undersigned hereby declares: That s(he) is now and at all times herein mentioned, a citizen of the United States and a resident of the State of Washington officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

On the date and time of **May 2 2005 3:09PM**

at the address of

within the County of

State of

the declarant duly served the above described documents upon

NEWPHARM.NET AND RALPHJORDAN@NEWPHARM.NETby then and there personally delivering **1** true and correct copy(ies) thereof, by then presenting to and leaving the same with**VIA E-MAIL TO THE FOLLOWING ADDRESSES: RALPHJORDAN@NEWPHARM.NET; SERVICE @NEWPHARM.NET; CLIVE@WALLCANN.COM; AFFILIATES@NEWPHARM.NET; LINLEYW@WALLCANN.COM; MELISSA@WALLCANN.COM;**

No information was provided that indicates that the subjects served are members of the U.S. military.

I hereby declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: May 5, 2005 at Seattle, WA

by

R. Beled KCR#9202899

The documents listed above were served in accordance with RCW 4.28.080 and/or client instructions. If service was substituted on another person or left with a person that refused to identify themselves, it is incumbent upon the client to notify ABC Legal Services, Inc. immediately in writing if further attempts to serve, serve by mail, or investigate are required. If service was substituted on another person, pursuant to RCW 4.28.080 (16), service shall be complete on the tenth day after a copy of the documents are mailed to the subject at the address where service was made. Documents were not mailed by ABC Legal Services, Inc.

Service Notes:

Documents:	0.00	Secretarial:	0.00	Other:	0.00
Travel:	0.00	Postage:	0.00	Total:	250.00
Invalid Address (0)	0.00	Photo:	0.00	Pre-Paid Retainer:	0.00
Proof Preparation:	0.00	Rush / Special:	250.00	AMOUNT DUE	250.00
Summons Copy:	0.00	Wait / Stake Out Time:	0.00		

Client Ref.:
G-miscellaneous
(Unknown)
(Unknown), WA 98104
000 000-0000

**CLIENT COPY
PROOF OF SERVICE**

ABC Legal Services, Inc.
910 5th Ave. Seattle, WA 98104
(206) 521-9000
Tracking #: **3531862**



ELC

Subject: CORPORATION ADDRESS

Date: 9/6/05 5:09:22 P.M. Eastern Daylight Time

From: klmurph@michigan.gov

To: Revdrbob@aol.com

Sent from the Internet (Details)

Your email was referred to the Corporation Division for a response on September 6. We do not capture the actual location of the entity. The statute requires we keep the registered office address of the resident agent on file in our office. The address you listed in your email for the entity New Pharm Distributors, LLC is what we currently have listed for the registered office address. There has been no other documents filed for this entity other than the articles of organization. You may view them online on our website at www.michigan.gov/corporations and go to Business Entity Search. Key in the name of the entity and click search.

We have no listing of the name RX-e Pharm in this office.

**Kit L. Murphy, Departmental Analyst
DLEG - Bureau of Commercial Services
Corporation Division
517-241-6470**

-----Original Message-----

From: Revdrbob@aol.com [mailto:Revdrbob@aol.com]

Sent: Friday, September 02, 2005 11:06 PM

To: BCSINFO

Subject: CORPORATION ADDRESS

TO WHOM IT MAY CONCERN:

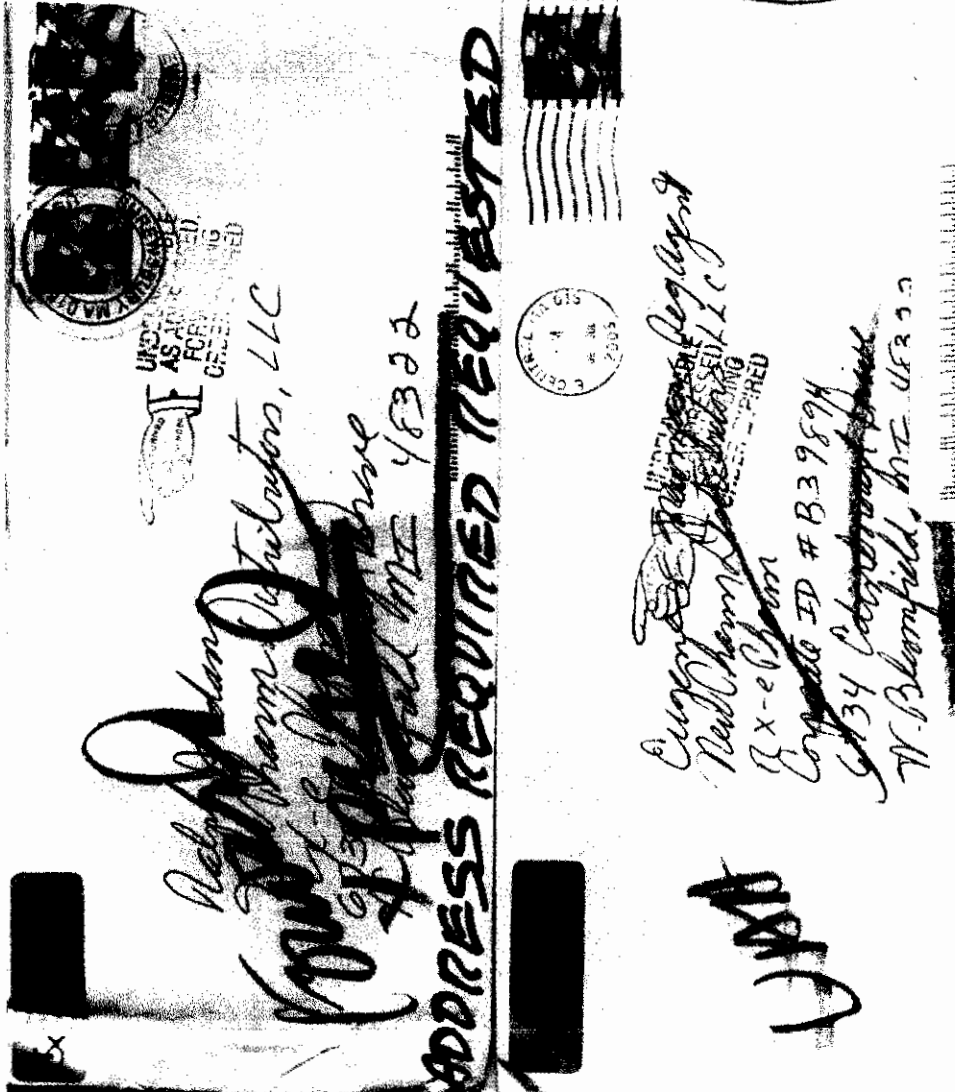
I am seeking the business address of the following corporation:

**New Pharm Distributors, LLC/Rx-e Pharm
Formerly addressed at 6734 Edinborough Drive, W Bloomfield
MI 48322
Listed as Corporate # B39894.
Please advise as to any fees involved.**

**Thank you.
Robert J. Gallagher**

EX. D-1

EX. D-1



EX. D-2

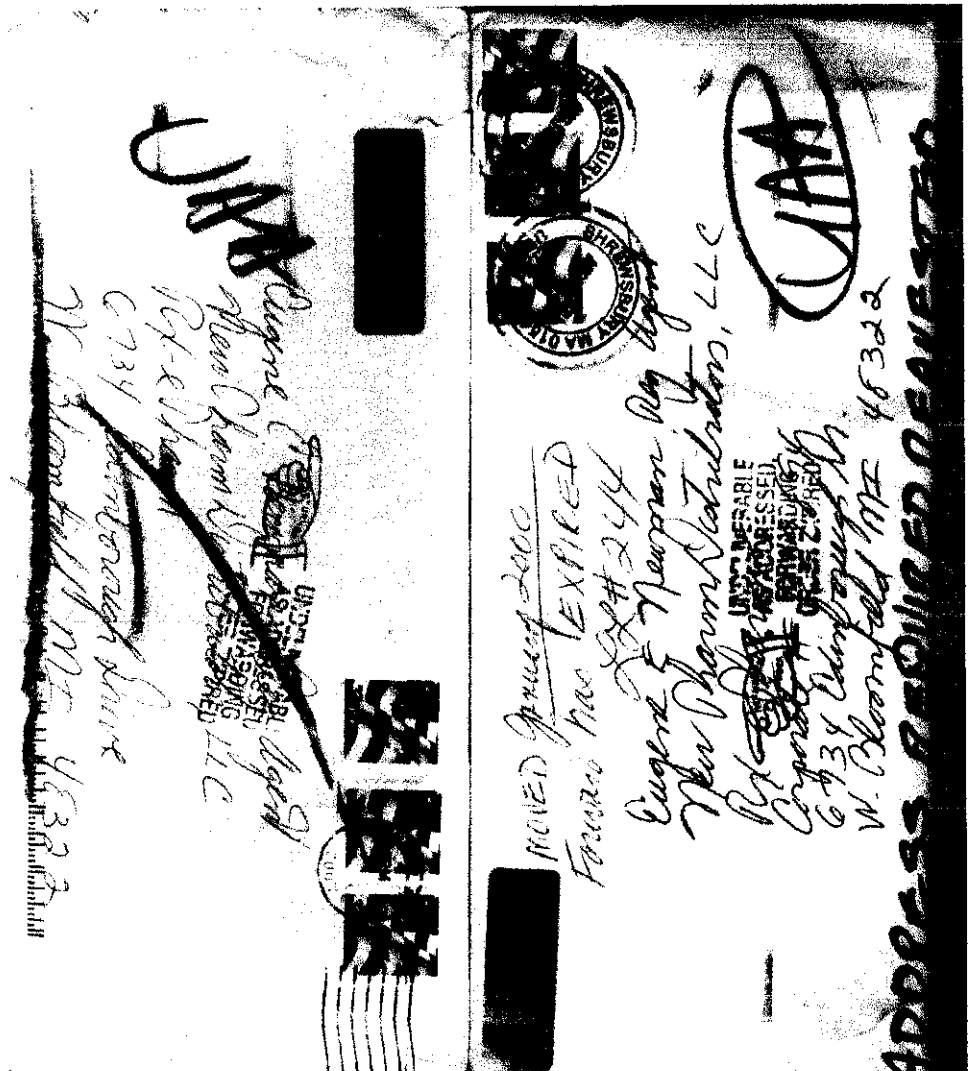
EX. D-2

Forward Xpress
JPM
Address E. Horman, Day Agent
New Charon Distributors, LLC
Attn: Charon
6734 E. Highway
H. Highway
48322
ADDRESS REQUEST

Forward Xpress
JPM
Address E. Horman, Day Agent
New Charon Distributors, LLC
Attn: Charon
6734 E. Highway
H. Highway
48322
ADDRESS REQUEST

EX. D-3

D-3



EX. D-4

EX. D-4



NOT DELIVERABLE
AS ADDRESSEE
UNABLE TO FORWARD

~~Ralph Grogan
Newborn Int'l Bkcs, LLC
P.O. Box
6734 Simpsonville
N. Bloomfield NJ 07005~~

